

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

JAMES TYLER,

Plaintiff,

Case No. 3:13-cv-419

v.

FEDEX FREIGHT, INC.,

Defendant.

JUDGE WALTER H. RICE

:

ENTRY AMENDING THE DECISION AND ENTRY SUSTAINING
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT (DOC. #30)

On April 23, 2015, the Court filed a Decision and Entry Sustaining Defendant's Motion for Summary Judgment in the above-captioned case. Doc. #30. In its entirety, Footnote 5 of the Decision and Entry read as follows:

Among the motions deemed moot, Defendant's Motion to Continue Deadline for Filing Joint Final Pretrial Order and Notice of Non-Compliance with General Order 12-01 (Doc. #29) states:

From Defendant's perspective, it appears that Plaintiff's counsel may no longer be prosecuting this action. Plaintiff's counsel has not complied with General Order No. 1 as it relates to the Joint [Final Pretrial] Order and so the Joint Order cannot be filed timely. Plaintiff's counsel has not been heard from concerning the Joint Order in response to repeated contacts since April 13th from the office of Defendant's counsel. Moreover, Plaintiff's counsel did not depose any of Defendant's key witnesses and did not participate in the April 17, 2015

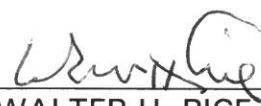
trial deposition of a material defense witness (Lance Appleman).

Plaintiff's counsel has filed no response explaining the failure to cooperate with opposing counsel in the drafting and filing of the Joint Final Pretrial Order. Based on Defendant's statements, it appears to the Court that Plaintiff has abandoned this lawsuit.

Doc. #30 at 18 n.5.

It has come to the Court's attention that counsel for Plaintiff filed Responses in Opposition (Doc. #27 and Doc. #28) on April 20, 2015, to two of the motions that were overruled as moot, Defendants' Motions in Limine (Doc. #25 and #26). Thus, it is quite apparent that the conclusion reached by the Court in the last sentence of the above-quoted footnote is not accurate. Plaintiff has not abandoned this lawsuit. Accordingly, the Decision and Entry of April 2, 2015 (Doc. #30), is hereby amended by entirely deleting the last sentence from footnote 5 of page 18.

Date: April 27, 2015



WALTER H. RICE
UNITED STATES DISTRICT JUDGE